

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12027 OF 2024

Mohit Shantilal Katariya ...Petitioner

Versus

State of Maharashtra & Ors ...Respondents

Mr. Vishwanath Talkute, for the Petitioner.

Mr. A.I. Patel, Addl.G.P., a/w R.S. Pawar, AGP for Respondent-State.

Mr. Soham Bhalerao, i/b DSK Legal, for Respondent No.2.

CORAM : G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE : SEPTEMBER 11, 2024

PC :

1. The petitioner's case is that of an alleged commission of theft of electricity. He has been issued three bills, which have been disputed by him before the Electricity Inspector in an appeal filed under Section 127(1) read with Section 126 of the Electricity Act, 2003 (for short "***the Act***") (Exhibit B). However, it is stated that as the said authority does not have the power to grant the reconnection of the electricity supply as an interim measure, the present petition is filed.

2. Mr. Talkute, learned Counsel for the petitioner would submit that the said appellate proceedings adopted by the petitioner are still pending. He draws our attention to regulations, namely, Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, and more particularly Regulation 8.6, whereunder the maximum period of assessment in respect of cases falling under Section 135 of the Act (Theft of Electricity) is prescribed to be two years prior to the date of detection of such dishonest abstraction, consumption or use of electricity. However, he submits that the bills which were issued to the petitioner are for a period extending more than two years (page 23, 26, 29). He also has drawn our attention to page 10, paragraph 4h, which is a comparative chart, which according to him would show the actual payment the petitioner would be required to make as opposed to the payment claimed by the respondents.

3. Learned Counsel for respondent No.2 has opposed this position of the petitioner. He submits that the petition involves disputed questions of fact, and that the petitioner also has resorted to an alternate remedy. He states that all these issues would be urged in the reply affidavit that the respondents intend to place on record.

4. Having heard the learned Counsel for the parties, we are of the opinion that at this stage of the proceedings, and before the parties are heard after the reply affidavit on behalf of respondent No.2 is filed, it would be in the interest of justice that the petitioner is directed to deposit a substantial amount as a condition for restoration of the electricity connection. Let an amount of Rs.10 Lakhs be deposited by the petitioner within a period of two weeks from today. On deposit of such amount, the electricity supply shall be immediately restored. This is without prejudice to the rights and contentions of the parties and subject to the further orders passed in the present proceedings and also in the pending proceedings of the appeal filed by the petitioner.

5. We may also observe that if the case of respondent No.2 is that of theft of electricity, and that the same is proved to be true, then necessarily a strict view of the matter would be required to be taken and the provisions of law including a criminal prosecution are required to be strictly adhered to. It cannot be countenanced that theft of electricity can be taken lightly and that there is no surveillance by respondent No.2 and its officers/agency.

6. We observe so, for the reason that the bills which are issued

to the petitioner are for a period exceeding about four to five years, which gives an indication that for such a long period petitioner had indulged in theft. According to the petitioner such period cannot be considered for recovery of the charges in regard to such theft, as they are required to be confined to only two years. However, what matters is that, if respondent No.2 is correct, then issues would arise as to whose lack of accountability led to such loss of revenue in the prior years and as to why vigil was not kept on such cases of theft which are causing a direct loss to a public exchequer as also to the citizens. The legislation does not create two categories of consumers, namely, one who enjoys the stolen electricity indulging in illegal activities and on the other hand, honest consumers who regularly pay their electricity charges for the actual consumption.

7. Respondent No.2 is certainly under an obligation to hold accountable the employees and officers who were supposed to have a strict vigilance but have failed to discharge their duties diligently. More so, when now it is technologically more easier, as the electricity requirement of each consumer is well within the expected consumption norms and any abnormal deviation from such consumption can be immediately noticed.

8. We find that these are the routine issues which are coming before the Court on electricity theft when they ought not to come at all. The concerned officials of respondent No.2's hence, are required to immediately sensitize its vigilance cells and publish on their website as to what steps are taken to maintain vigilance in their respective wards/areas throughout the State of Maharashtra. We believe that unless a strict vigilance is maintained and such actions as the law warrants is taken, the menace of theft of electricity can never be redressed. In fact it would amount to a premium on illegality if no actions are taken and for which the concerned officials of respondent No.2 would be required to be held to be accountable as also be held guilty in appropriate departmental proceedings.

9. We also direct the Chairman of respondent No.2 to appoint region wise Nodal Vigilance Officers, if not already appointed, who shall convene regular meetings of the sub-officers who are required to work on the field and hold them accountable, in the event, requisite actions are not taken and the deviations in the electricity consumption which have occurred are not being dealt with in accordance with law.

10. Let the copy of this order be also sent to the Chairman of

respondent No.2, and on the adjourned date of hearing a compliance in regard to these observations be placed before the Court.

11. For compliance of such observations and the ad-interim orders which we have passed, the proceedings to be listed before the regular Bench after four weeks i.e., **9 October, 2024**. Reply affidavit to be placed on record within a period of two weeks from today. Rejoinder, if any, to be filed within two weeks thereafter.

[SOMASEKHAR SUNDARESAN, J.]

[G. S. KULKARNI, J.]